

Faulk, Camilla

From: Tvedt, Colette [tvedt@sgb-law.com]
Sent: Friday, April 29, 2011 4:57 PM
To: Faulk, Camilla
Subject: Proposed CrR 4.11

I am writing in support of adopting Superior Court Criminal Rule Cr R 4.11. It is defense counsel's experience that trials are a more effective search for the truth when pre-trial interviews are tape recorded or a court reporter is present. Doing so eliminates the possibility that civilian witnesses or even seasoned law-enforcement witnesses will claim that an investigator incorrectly recorded what was said during the interview. It is also defense counsel's experience that tape recorded or court reporter interviews are much more efficient, in that they eliminate the need for frequent confirmations that the investigator's notes are an accurate description of the content of the interview. When using a tape recorder or having a court reporter present taking verbatim notes, there is no question as to what is said in the interview, and the interview proceeds more quickly because there are no delays while the lawyers and the witness wait for the investigator to attempt to write down what the witness says or to read back a witness's answer to confirm that it was written down correctly. Trials also proceed more efficiently. In defense counsel's experience, any issues involving impeachment or refreshing the recollection of witnesses are easily accomplished with a verbatim transcript. It also avoids the costly and time consuming issue of having to call the investigator to the stand to testify as to what was actually said by a witness at the interview. Tape recording or having a court reporter present allows for a transcript of the interview which is available to both the defense and the prosecution. The rule does not convert the interview into a deposition. The witness is not sworn, there are no formal objections, there are none of the formalities of a deposition, and the interview cannot be used in lieu of testimony if the witness does not appear. Rather, it is simply an interview – with a highly accurate record. The proposed amendments will increase the fairness of the criminal justice system while making the system run more efficiently. Thank you for your consideration. Sincerely,

Colette Tvedt , WSBA 38995

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